Supreme Court, U.S.
FILED
JAN 16 1996
CLERK

(2)

NO. 95-1163

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1996

LARRY K. WILLIS
Petitioner

V.

SHELBY COUNTY TENNESSEE, INFORMATION TECHNOLOGY
WILLIAM N. MORRIS, JR.
RICHARD SWIGGART
HENRY MARMON
JOSEPH JACKSON, et al.
Respondents

SUPPLEMENTAL APPENDIX

CASE NUMBER 95-5107

LARRY K.WILLIS
IN PROPRIA PERSONA
3354 FAIRBANKS ST.
MEMPHIS, TN. 38128

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DISTRICT COURT DECISION AND JUDGEMENT, NOVEMBER 30TH, 1994. . . . . 6a

DISTRICT COURT ORDER GRANTING DEFENDANTS' MOTION TO SET ASIDE DEFAULT, JANUARY 23RD, 1995 . . . . . 7a

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

LARRY K. WILLIS	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 94-2575-M1/Bro
	)	
SHELBY COUNTY TENNESSEE	)	
INFORMATION TECHNOLOGY,	)	
WILLIAM N. MORRIS, JR.,	)	
RICHARD SWIGGART,	)	
HENRY MARMON,	)	
JOSEPH JACKSON, et al.,	)	
	)	
Defendants.	)	

ORDER OF DISMISSAL AND ORDER GRANTING DEFENDANTS' MOTION TO STRIKE REFERENCES TO SETTLEMENT NEGOTIATIONS

This cause came to be heard on October 28, 1994. Based upon the statements of counsel and the plaintiff, it appears to this Court that the defendants' Motion to Dismiss should be GRANTED and this matter DISMISSED without prejudice for the reasons stated below.

Plaintiff's claim based upon Title VII of the Civil Rights Act of 1964, 42 U.S.C. @ 2000e(5) et seq., is DISMISSED without prejudice because plaintiff has failed to properly exhaust his administrative remedies as required by Title VII in that he has not received a statutory notice of the right-to-sue. See Puckett v. Tennessee Eastman Co., 889 F.2d 1481, 1485-87 (6th Cir. 1989).

Plaintiff's claim based upon 42 U.S.C. @ 1983 is DISMISSED without prejudice because Title VII provides the exclusive remedy when the only 1983 cause of action is based on a violation of Title VII, and plaintiff's Title VII claim has been dismissed because it is premature.

Plaintiff's claim based upon the Equal Pay Act (EPA), 29 U.S.C. @ 206, is also

DISMISSED without prejudice because plaintiff has not received the prerequisite right-to-sue letter. Enforcement of the Equal Pay Act is the responsibility of the Equal Employment Opportunity Commission pursuant to the Reorganization Plan No. 1 of 1978, Section 1, 43 F.R. 19807, 92 Stat. 3781. Once a charge has been filed with the EEOC, the EEOC regulations governing the issuance of notices of right-to-sue prevail.(1)

Further, defendants' motion to strike appears well taken. The references to settlement negotiations now in the record through plaintiff's response to defendant's Motion to Dismiss are not relevant to the motion and are therefore sticken from the record.

Based on the foregoing IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the

defendants' Motion to Dismiss is hereby GRANTED and this case is dismissed without prejudice and the defendants' Motion to Strike References to Settlement Negotiations is also granted.

ENTERED this 25 day of November, 1994.

Jon P. McCalla
JON PHIPPS McCALLA
UNITED STATES DISTRICT JUDGE

(1) Defendant argues that the EEOC rules governing notices of right-to-sue, 29 C.F.R. @ 1601.28(b)(1), prevail in EPA claims. Based on this Court's research, at least one court appears to have acknowledged that a plaintiff must exhaust his or her administrative remedies, including reciept of a right-to-sue letter prior to bringing a claim under the EPA. See Danielson, et al. v. Du Page Area Vocational Educ. Auth., 595 F. Supp 27, 28-29 (N.D. I1 1984) The parties have not cited any case to the contrary nor has this Court found any.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

LARRY K. WILLIS

VS

JUDGEMENT IN A CIVIL CASE

SHELBY COUNTY TENNESSEE
INFORMATION TECHNOLOGY,
WILLIAM N. MORRIS, JR.,
RICHARD SWIGGART, HENRY
MARMON, JOSEPH JACKSON, et al.

CASE NO: 94/2575-M1/Bro

DECISION BY COURT. This action came to consideration before the Court. The issues have been considered and a decision has been rendered.

IT IS SO ORDERED AND ADJUDGED that in accordance with the Order of Dismissal entered on November 25, 1994, this cause is hereby dismissed, without prejudice.

APPROVED:

JON P. McCALLA
JON PHIPPS MCCALA
UNITED STATES DISTRICT COURT

NOV. 30,1994
Date

ROBERT R. DITROLIO
Clerk of Court

Wendy Blackledge Ellis
(By) Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

LARRY K. WILLIS	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 94-2575-M1/Bro
	)	
SHELBY COUNTY TENNESSEE INFORMATION TECHNOLOGY, WILLIAM N. MORRIS, JR., RICHARD SWIGGART, HENRY MARMON, JOSEPH JACKSON, et al.,	)	
	)	
Defendants.	)	

ORDER GRANTING DEFENDANTS' MOTION TO SET ASIDE DEFAULT

This matter is before the Court on defendants's Motion to Set Aside Default, filed August 11, 1994. Oral argument on this motion was heard at this Court's Motion Call on September 30, 1994. Attorney Dedrick Brittenum, Jr., appeared for the defendants, and the plaintiff appeared pro se.

On September 30, 1994, in open court, this Court granted defendants' Motion to Set Aside Default. Pursuant to this Court's oral grant of defendants' motion, defendants' Motion to Set Aside Default was hereby GRANTED. For purposes of clarification, the Court is entering this order in written form.

SO ORDERED, THIS 23 DAY OF JANUARY, 1995.

JON P. McCALLA
JON P. McCALLA
UNITED STATES DISTRICT JUDGE